

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

United States of America)	
)	Cr. No. 6:01-828-HMH
vs.)	
)	
James Theo Parker,)	
)	OPINION & ORDER
Movant.)	

This matter is before the court on James Theo Parker’s (“Parker”) motion to correct the judgment pursuant to Rule 36 of the Federal Rules of Criminal Procedure. In his motion, Parker alleges that he is entitled to credit toward his federal sentence for the time period from November 27, 2001, until the date of his sentencing on June 10, 2002. (Mot. 1.) Rule 36 provides that “[a]fter giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.” Rule 36 allows the court to correct a clerical error in a criminal judgment. However, Rule 36 is not the proper vehicle for alleging a claim for credit toward a federal sentence. “A claim for credit against a sentence attacks the computation and execution of the sentence rather than the sentence itself. Judicial review must be sought under 28 U.S.C. § 2241. . . .” United States v. Miller, 871 F.2d 488, 490 (4th Cir. 1989).

Therefore, it is

ORDERED that Parker's motion to correct the judgment, document number 514, is denied.

IT IS SO ORDERED.

s/ Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
December 1, 2005

NOTICE OF RIGHT TO APPEAL

The movant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.